

New Source Review Update

**Air Directors' Meeting
York, Pennsylvania
May 15, 2003**

NSR UPDATE

- **Brief Background on Reform Measures**
- **Upcoming Regulatory Actions**
- **Litigation Update**
- **Program Development Options**

NSR Reform Measures

Baseline Actual Emissions

Actual-to-Projected-Actual Applicability Test

Actual Plantwide Applicability Limits (PALs)

Clean Unit Status

Pollution Control Project (PCP) Exclusion

Baseline Actual Emissions

Old Requirement:

Average annual emissions for the 2-year period immediately preceding the project.

New Requirement:

Average emissions for any consecutive 24-month period in the 10-year period preceding the project

Actual-to-Projected-Actual Test

Old Requirement:

Actual-to-Potential Test

New Requirement:

Baseline actual emissions compared to projected maximum actual annual emissions for 5-year period after project (or 10-year period if project increases potential to emit)

Plantwide Applicability Limits (PALs)

A PAL is a pollutant-specific, annual, facility-wide emission limit under which the facility may make any changes without triggering NSR.

- ➔ Based on actual annual emissions
 - 24-month period in 10-year period
 - plus potential-to-emit (PTE) of "new" units
 - plus significance level
 - minus shutdown units
 - minus limits from new applicable requirements
- ➔ 10-year term (revisable and renewable)

Clean Unit Status

■ Modifications at "Clean Units" are exempt from NSR if change does not cause emissions unit to exceed allowable limits.

■ Clean Unit Test:

- ➔ BACT/LAER units or "equivalent" units.
- ➔ Control must require monetary investment
- ➔ Status available for up to 10 years after controls are applied.

Pollution Control Project (PCP) Exclusion

- Qualifying PCPs are exempt from NSR if they meet the following tests:**
 - ➔ Environmentally Beneficial Test**
 - ➔ "Cause or Contribute" (to NAAQS or PSD violation) Test**
- EPA List of Pre-approved PCPs
(Case-by-case approval also available.)**

Upcoming Regulatory Actions

■ Routine Maintenance, Repair and Replacement

- ➔ Proposed December 2002
- ➔ Comment Period Closed May 2, 2003
- ➔ Targeting Final Rule by End of 2003

■ Aggregation, Debottlenecking and Allowable PALs

- ➔ Targeting Proposed Rule for Fall 2003

Litigation Update

■ Total of 19 Petitions for Review have been received and consolidated into one case.

■ Who's Suing EPA?

- ➔ 14 States, District of Columbia, and numerous cities and local air districts
- ➔ 7 Environmental Groups
- ➔ 4 Industry Groups (representing dozens of companies) and 1 mining company

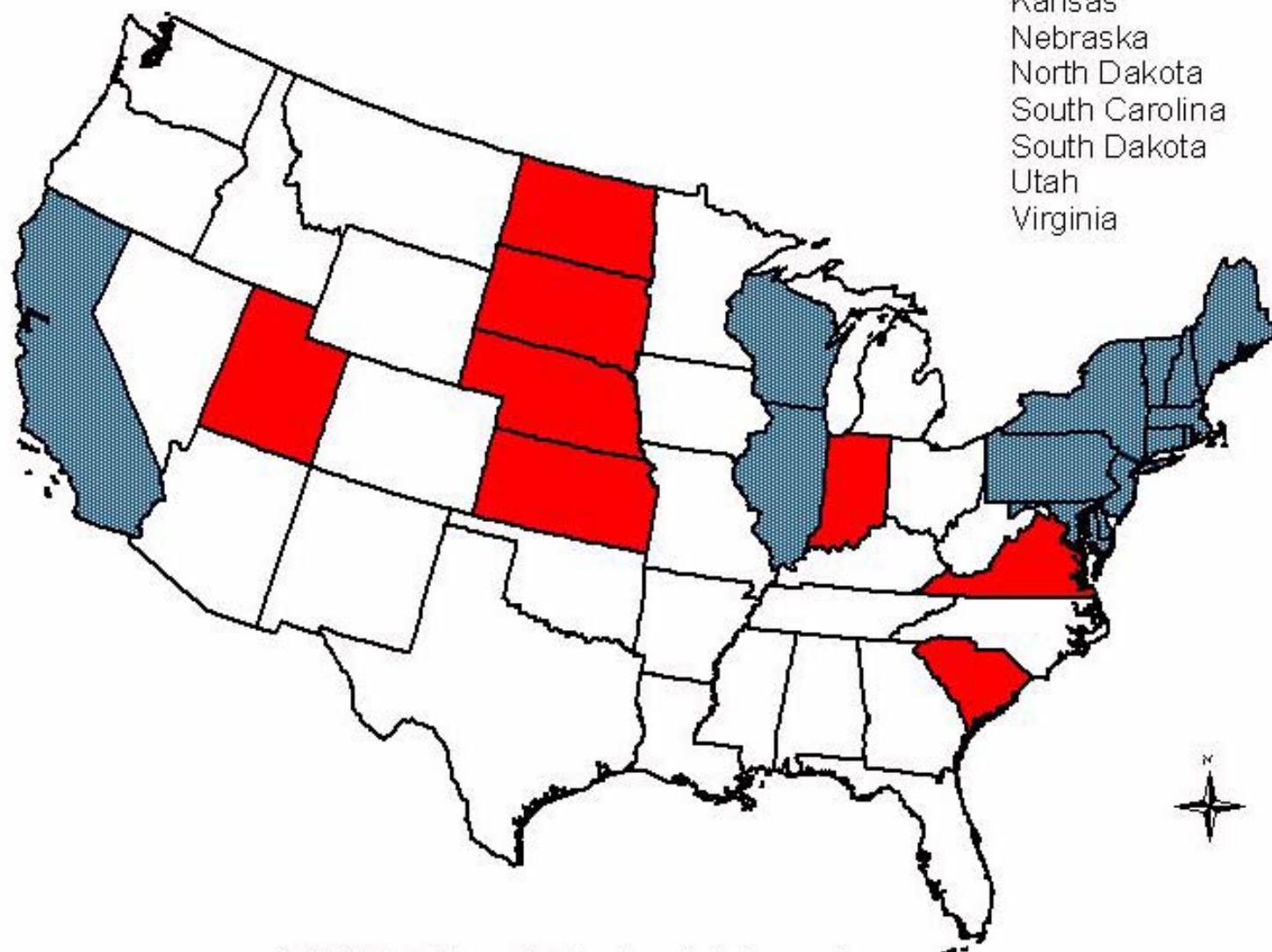
Litigation Update

■ Who's Not Suing EPA?

- ➔ 9 States and 9 industry groups are interveners on behalf of the Agency against the Petitioners.

■ However - Virtually all Petitioners are Interveners and Vice Versa

***Alaska Not Shown



NSR Final Rule Litigation

Litigation Update

Proceedings to Date:

- Petitions to stay final rules denied by Court
- Consolidated case designated for expedited briefing schedule
- UARG, NRDC, and ACC filed separate actions reopen 1980 and 1992 litigation on NSR [Court not acted yet]

Petitions for Reconsideration of Final Rules

- Agency hopes to respond by end of May

Program Development Options

■ DELEGATION of PSD

- ➔ Allegheny County Delegated March 2003
- ➔ Philadelphia "Delegated" via March 2003 SIP Approval
- ➔ Pennsylvania "Delegated" via existing SIP Approval

■ SIP APPROVAL for NSR and PSD

- ➔ Conforming SIP submittals due by January 2006

Program Development Options

EQUIVALENCY

- Programs may meet minimum requirements 40 CFR part 51 "with different but equivalent regulations."
- In the near future, EPA expects to issue guidance on demonstrating "equivalency".